

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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TRUSTEES OF THE UNITED PLANT AND
PRODUCTION WORKERS LOCAL 175 BENEFITS
FUND,

Plaintiff,

-against-

ADOPTION ORDER
18-CV-4269 (JS) (ARL)

MANA CONSTRUCTION GROUP, LTD.; The Estate
of MARK FELDMAN; PATRYCIA FELDMAN,
as executor of the Estate of MARK FELDMAN;
NATALE F. CARDINO; and JOHN DOE COMPANY,

Defendants.

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APPEARANCES

For Plaintiff: Vito A. Palmieri, Esq.
Palmieri Castiglione & Associates, P.C.
250 Mineola Boulevard, 2nd Floor
Mineola, New York 11501

For Defendant Mana
Construction Group, LTD: No appearances.

SEYBERT, District Judge:

On July 27, 2018, Trustees of the United Plant and
Production Workers Local 175 Benefits Fund ("Plaintiff") commenced
this action against Mana Construction Group, LTD. ("Defendant"),
among others, pursuant to Sections 502 and 515 of the Employee
Retirement Income Security Act ("ERISA"), as amended, 29 U.S.C.
§ 132(a)(3). On May 7, 2021, this Court referred Plaintiff's
second motion for default judgment against Defendant to Magistrate

Judge Arlene R. Lindsay. (See Motion, ECF No. 49; May 7, 2021 Elec. Order No. 1.)¹

On January 25, 2022, Judge Lindsay issued a Report and Recommendation ("R&R") recommending that the Court grant Plaintiff's motion for default judgment with respect to Plaintiff's ERISA claim for unpaid contributions and deny it with respect to Plaintiff's ERISA claim for withdrawal liability. (R&R, ECF No. 53, at 1, 9-11.) With respect to damages, Judge Lindsay recommended Plaintiff be awarded (1) \$353,546.25 in unpaid contributions; (2) \$253,551.87 in interest on the unpaid contributions through January 24, 2022;² (3) \$35,354.67 in liquidated damages; (4) \$14,175.00 in audit fees; (5) \$7,640.00 in attorneys' fees; and (6) \$400 in costs, for a total award of \$664,267.79. (Id. at 1-2, 11-20.)³

¹ On March 25, 2020, Plaintiff filed its initial motion for default judgment against Defendant Mana Construction Group, LTD. (ECF No. 22), and on October 23, 2020, this Court referred the motion to Judge Lindsay for a report and recommendation (see Oct. 23, 2020 Elec. Order). However, because Plaintiff failed to serve that default motion on Defendant, Judge Lindsay recommended the motion be denied (ECF No. 42), and this Court agreed, adopting the report and recommendation in full (ECF No. 45).

² In her R&R, Judge Lindsay correctly calculated interest based on unpaid contributions, as required under the applicable CBA provisions, and not based on unpaid contributions, plus liquidated damages, interest, and audit fees, as Plaintiff proposed. (R&R at 14.)

³ The total recommended award does not include the \$400 in costs and should be \$664,667.79.

The time to object has expired and no objections to the R&R have been filed. Upon careful review and consideration, the Court finds Judge Lindsay's R&R to be comprehensive, well-reasoned, and free of clear error. Accordingly, the Court ADOPTS the R&R (ECF No. 53), except as modified below, and Plaintiff's motion for default judgment (ECF No. 49) is GRANTED in part and DENIED in part. Plaintiff is awarded (1) \$353,546.25 in unpaid contributions; (2) \$259,138.32 in interest on the unpaid contributions through March 22, 2022; (3) \$35,354.63 in liquidated damages; (4) \$14,175.00 in audit fees; (5) \$7,640.00 in attorneys' fees; and (6) \$400 in costs, for a total award of \$670,254.20.

Because Defendant Mana Construction Group LTD. is the last remaining Defendant, the Clerk of the Court is respectfully directed to enter judgment accordingly and mark this case CLOSED.

SO ORDERED.

/s/ JOANNA SEYBERT
Joanna Seybert, U.S.D.J.

Dated: March 22, 2022
Central Islip, New York